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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 JOSE MIGUEL DE LA CRUZ,
12 Plaintiff,
13 v.
14 OSCAR GALLOWAY, et al.,
15 Defendants.
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Case No. 1:20-cv-00997-DAD-EPG (PC)

ORDER DENYING PLAINTIFF'S MOTION
FOR APPOINTMENT OF PRO BONO
COUNSEL, WITHOUT PREJUDICE

(ECF No. 28)

18 Jose Miguel Da Le Cruz ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma*
19 *pauperis* in this civil rights action filed pursuant to 42 U.S.C. § 1983.

20 On June 28, 2021, Plaintiff filed a motion for appointment of pro bono counsel, along
21 with a copy of his prisoner trust fund account statement. (ECF Nos. 28 & 29). Plaintiff asks for
22 appointment of counsel because he is unable to afford counsel; because the issues involved in this
23 case are complex; because, as a segregation inmate, Plaintiff has extremely limited access to the
24 law library; because Plaintiff wrote letters to attorneys asking them to represent him, to no avail;
25 and because plaintiff has limited knowledge of the law.

26 Plaintiff does not have a constitutional right to appointed counsel in this action, Rand v.
27 Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), withdrawn in part on other grounds, 154 F.3d 952
28 (9th Cir. 1998), and the Court cannot require an attorney to represent Plaintiff pursuant to 28

1 U.S.C. § 1915(e)(1). Mallard v. United States District Court for the Southern District of Iowa,
2 490 U.S. 296, 298 (1989). However, in certain exceptional circumstances the Court may request
3 the voluntary assistance of counsel pursuant to section 1915(e)(1). Rand, 113 F.3d at 1525.

4 Without a reasonable method of securing and compensating counsel, the Court will seek
5 volunteer counsel only in the most serious and exceptional cases. In determining whether
6 “exceptional circumstances exist, a district court must evaluate both the likelihood of success of
7 the merits [and] the ability of the [plaintiff] to articulate his claims *pro se* in light of the
8 complexity of the legal issues involved.” Id. (citation and internal quotation marks omitted).

9 The Court will not order appointment of pro bono counsel at this time. The Court has
10 reviewed the record in this case, and at this time the Court is unable to make a determination that
11 Plaintiff is likely to succeed on the merits of his claims. Moreover, it appears that Plaintiff can
12 adequately articulate his claims.

13 Plaintiff is advised that he is not precluded from renewing his motion for appointment of
14 pro bono counsel at a later stage of the proceedings.

15 For the foregoing reasons, IT IS ORDERED that Plaintiff’s motion for appointment of pro
16 bono counsel is DENIED without prejudice.

17 IT IS SO ORDERED.
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19 Dated: June 29, 2021

/s/ Eric P. Grogan
20 UNITED STATES MAGISTRATE JUDGE
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